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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
~~90/005,744~~ 09/343,696	06/13/2000	5706621	TPP 30880	8787

7590 10/27/2003

EXAMINER	

ART UNIT	PAPER NUMBER

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DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/343,696 ~~09/002,744~~	TONY OERVAN
Examiner	**Art Unit**
YVONNE M. HORTON	3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Jun 30, 1999*.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-40* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the specification must be carefully proofread and corrected because "equalising", throughout, should be --equalizing--. Appropriate correction is required.

Claim Objections

2. Claims 7,8 and 35 are objected to because of the following informalities:

- In claims 7,8 and 23 "equalising" should be --equalizing--. The applicant is required to proofread all claims for similar misspelled words.
- Claim 35 is formed using two sentences. A claim is required to be *only* one sentence. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10,11,13,17 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding claims 10,11,17 and 19, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

6. Regarding claims 13 and 19, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1,2,14,21-23,31 and 36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,516,579. Although the conflicting claims are not identical, they are not patentably distinct

from each other because each is directed to a system for joining adjacent panels including first and second mechanical connections wherein at least one of the connections include a locking strip and groove wherein the locking groove is formed on an underside of the panel and the panels are joined such that a play exists between adjacent panels.

9. Claims 5,13,24,25,29,33-35 and 40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,516,579 in view of US Patent #6,532,709. '579 claims the basic structure except for the material of the locking strip being different from that of the panel. '709 teaches that it is known to form the locking strip of a joining panel out a material that is different from the material of the panel, and more specifically; wherein the material is a flexible and resilient aluminum material. Hence, it would have been obvious to form the locking strip of '579 out of a resiliently flexible aluminum material, as taught by '709 in order to ensure a firm mechanical connection between the adjacent panels while also allowing the joining assembly to be disassembled with ease and without destruction to the panels or the joining mechanisms.

10. Claims 10,11,13,26,27,29,30,34,35,37,38 and 40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,516,579 in view of US Patent #6,324,803. '579 claims the basic panel joining system except for detailing that the mechanical connection including a gripping edge defined by two recesses; wherein the locking strip presses against opposite side of the recesses. '803 teaches that it is known to form a panel joining mechanical connection system wherein the connection includes a gripping edge defined by two recesses; wherein the locking strip presses

against opposite side of the recesses. Hence, it would have been obvious to include a locking assembly of '579 with an edge defined about the locking recess/lips of '803 such that the locking strip is firmly disposed within the recess and the panels are thereby prevented from being dislodged one from the other without intentionally doing so.

11. Claims 3,16,19 and 20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,516,579 in view of US/2002/0178682. '579 claims the basic panel joining system except for detailing that the height of the locking strip is equal to or less than 2mm and except for the use of a sealing means. US/2002/0178682 teaches that it is known to form the locking strip of a mechanical panel joining system; wherein the strip has a height equal to or less than 2mm. US/2002/0178682 also teaches the use of a sealing means. Hence, it would have been obvious to provide the joining system of '579 with the locking strip height of less than 2mm and a sealing means US/2002/0178682 in order to facilitate smooth insertion of the strip within the locking groove thereby reducing assembly time and in order to prevent moisture and unwanted debris from lodging between adjacent panels thereby upsetting the connection therebetween and also deteriorating the members forming the connection.

12. Claim 17 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,516,579 in view of US/2002/0178673. '579 claims the basic panel joining system except for including an underlay. US/2002/0178673 teaches that it is known to provide a panel joining system with a floor board, foam or felt underlay. Hence, it would have been obvious to provide the system of '579 with the

underlay of US/2002/0178673 in order to efficiently transmit stresses exerted on the system such that the panel members when walked upon will not grind into the supporting surface and thereby deteriorate faster over time and use.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

October 9, 2003